

ESHB 1064 - S AMD TO WM COMM AMD (S3121.1) **452**

By Senators Roach, Esser, Stevens, Parlette, Benton, Pflug

NOT ADOPTED 04/07/2005

1 On page 1, beginning on line 10 of the amendment, strike all of
2 subsections (3), (4), and (5) and insert "and

3 (3) Fair, independent, professional performance audits of state
4 agencies by the state auditor are essential to improving the efficiency
5 and effectiveness of government."

6 Beginning on page 1, line 19 of the amendment, strike all of
7 sections 2 and 3 and insert the following:

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.09 RCW
9 to read as follows:

10 For purposes of sections 3 through 6 of this act:

11 (1) "Board" means the citizen accountability advisory board created
12 in section 4 of this act.

13 (2) "Performance audit" means an objective and systematic
14 assessment of a state agency or agencies or any of their programs,
15 functions, or activities by an independent auditor in order to help
16 improve agency efficiency, effectiveness, and accountability.
17 Performance audits include economy and efficiency audits and program
18 audits.

19 (3) "State agency" or "agency" means a state agency, department,
20 office, officer, board, commission, bureau, division, institution, or
21 institution of higher education. "State agency" includes all elective
22 offices in the executive branch state government. This includes state
23 agencies and programs as well as those programs and activities that
24 cross agency lines.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.09 RCW
26 to read as follows:

27 The state auditor may conduct performance audits under the

1 provisions of sections 1 through 7, 9, and 10 of this act. The state
2 auditor may contract for performance audits as he or she may determine.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.09 RCW
4 to read as follows:

5 (1) A citizen accountability advisory board is created to provide
6 advice to the state auditor on performance audits of state government.

7 (2) The board shall consist of eight members as follows:

8 (a) One member shall be selected by the state auditor;

9 (b) One member shall be selected by the chair of the joint
10 legislative audit and review committee;

11 (c) One member shall be selected by the director of the office of
12 financial management;

13 (d) Four of the members shall be selected by the governor as
14 follows: Each major caucus of the house of representatives and the
15 senate shall submit a list of three names. The lists may not include
16 the names of members of the legislature. The governor shall select a
17 person from each list provided by each caucus; and

18 (e) One member shall be selected by the governor.

19 (3) The board shall elect a chair.

20 (4) Appointees shall be individuals who have a basic understanding
21 of state government operations with knowledge and expertise in
22 performance management, quality management, strategic planning,
23 performance assessments, or closely related fields.

24 (5) Members shall serve for terms of four years, with the terms
25 expiring on June 30th on the fourth year of the term. However, in the
26 case of the initial members, two members shall serve four-year terms,
27 two members shall serve three-year terms, and one member shall serve a
28 two-year term, with each of the terms expiring on June 30th of the
29 applicable year. Appointees may be reappointed to serve more than one
30 term.

31 (6) The state auditor's office shall provide staff assistance to
32 the board.

33 (7) The board shall meet at least once a quarter and may hold
34 additional meetings at the call of the chair or by a majority vote of
35 the members of the board. Meetings are subject to chapter 42.30 RCW.

36 (8) The members of the board shall be compensated in accordance

1 with RCW 43.03.220 and reimbursed for travel expenses in accordance
2 with RCW 43.03.050 and 43.03.060."

3 Renumber the remaining sections consecutively and correct any
4 internal references accordingly.

5 On page 3, line 30 of the amendment, after "an" insert "annual"

6 On page 3, line 31 of the amendment, after "conducting" insert
7 "annual"

8 On page 4, at the beginning of line 4 of the amendment, after
9 "employees" strike "including front-line employees"

10 On page 4, line 11 of the amendment, after "partner" strike "those"

11 On page 4, beginning on line 12 of the amendment, after "in" strike
12 all material through "criteria" on line 13, and insert "public sector
13 reviews"

14 On page 4, line 20 of the amendment, after "of the" insert "annual"

15 Beginning on page 4, line 22 of the amendment, strike all of
16 sections 5 through 11 and insert the following:

17 "NEW SECTION. **Sec. 5.** A new section is added to chapter 43.09 RCW
18 to read as follows:

19 (1) The state auditor shall establish criteria and protocols for
20 performance audits. Agencies shall be audited using criteria that
21 include generally accepted government auditing standards as well as
22 legislative mandates and performance objectives established by state
23 agencies. Mandates include, but are not limited to, agency strategies,
24 timelines, program objectives, and mission and goals as required in RCW
25 43.88.090.

26 (2) Using the criteria developed in subsection (1) of this section,
27 the state auditor shall complete a statewide performance review as a
28 preliminary to a work plan for conducting performance audits. The

1 state auditor shall develop a schedule and common methodology for
2 conducting these performance audits.

3 (3) In developing the work plan, the state auditor shall consider
4 input from the board, citizens, state employees, state managers, the
5 joint legislative audit and review committee, public officials, and
6 others. The work plan may include a list of agencies, programs, or
7 systems to be audited on a timeline decided by the state auditor based
8 on a number of factors including risk, importance, and citizen
9 concerns. All audits shall be designed to be completed within a six-
10 month period.

11 (4) Before adopting the final work plan, the state auditor shall
12 consult with the legislative auditor and other appropriate oversight
13 and audit entities to coordinate work plans and avoid duplication of
14 effort in their planned performance audits of state government. The
15 state auditor shall defer to the joint legislative audit and review
16 committee work plan if a similar audit is included on both work plans
17 for auditing.

18 (5) In conducting the audits, agency front-line employees and
19 internal auditors should be involved. The audits may include:

20 (a) Identification of programs and services that can be eliminated,
21 reduced, consolidated, or enhanced;

22 (b) Identification of funding sources to the state agency, to
23 programs, and to services that can be eliminated, reduced,
24 consolidated, or enhanced;

25 (c) Analysis of gaps and overlaps in programs and services and
26 recommendations for improving, dropping, blending, or separating
27 functions to correct gaps or overlaps;

28 (d) Analysis and recommendations for pooling information technology
29 systems used within the state agency, and evaluation of information
30 processing and telecommunications policy, organization, and management;

31 (e) Analysis of the roles and functions of the state agency, its
32 programs, and its services and their compliance with statutory
33 authority and recommendations for eliminating or changing those roles
34 and functions and ensuring compliance with statutory authority;

35 (f) Recommendations for eliminating or changing statutes, rules,
36 and policy directives as may be necessary to ensure that the agency
37 carry out reasonably and properly those functions vested in the agency
38 by statute;

1 (g) Verification of the reliability and validity of agency
2 performance data, self-assessments, and performance measurement systems
3 as required under RCW 43.88.090;

4 (h) Identification of potential cost savings in the state agency,
5 its programs, and its services;

6 (i) Identification and recognition of best practices;

7 (j) Evaluation of planning, budgeting, and program evaluation
8 policies and practices;

9 (k) Evaluation of personnel systems operation and management;

10 (l) Evaluation of state purchasing operations and management
11 policies and practices; and

12 (m) Evaluation of organizational structure and staffing levels,
13 particularly in terms of the ratio of managers and supervisors to
14 nonmanagement personnel.

15 (6) The state auditor's performance audit work plan shall be
16 updated at least annually.

17 (7) The state auditor must provide the preliminary performance
18 audit reports to the audited state agency for comment. The auditor
19 also may seek input on the preliminary report from other appropriate
20 officials. Comments must be received within thirty days after receipt
21 of the preliminary performance audit report unless a different time
22 period is approved by the state auditor. The final performance audit
23 report shall include the objectives, scope, and methodology; the audit
24 results, including findings and recommendations; the agency's response
25 and conclusions; and identification of best practices.

26 (8) The state auditor shall provide final performance audit reports
27 to the citizens of Washington, the governor, the board, the joint
28 legislative audit and review committee, the appropriate legislative
29 committees, and other appropriate officials. Final performance audit
30 reports shall be posted on the internet.

31 (9) The state auditor may conduct performance audits for
32 transportation-related agencies as defined under RCW 44.75.020.

33 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.09 RCW
34 to read as follows:

35 The audited agency is responsible for follow-up and corrective
36 action on all performance audit findings and recommendations. The
37 audited agency's plan for addressing each audit finding and

1 recommendation shall be included in the final audit report. The plan
2 shall provide the name of the contact person responsible for each
3 action, the action planned, and the anticipated completion date. If
4 the audited agency does not agree with the audit findings and
5 recommendations or believes action is not required, then the action
6 plan shall include an explanation and specific reasons.

7 The office of financial management shall require periodic progress
8 reports from the audited agency until all resolution has occurred. The
9 office of financial management is responsible for achieving audit
10 resolution. The office of financial management shall annually report
11 by December 31st the status of performance audit resolution to the
12 appropriate legislative committees and the state auditor. The
13 legislature shall consider the performance audit results in connection
14 with the state budget process.

15 The auditor may request status reports on specific audits or
16 findings.

17 **Sec. 7.** RCW 43.88.160 and 2002 c 260 s 1 are each amended to read
18 as follows:

19 This section sets forth the major fiscal duties and
20 responsibilities of officers and agencies of the executive branch. The
21 regulations issued by the governor pursuant to this chapter shall
22 provide for a comprehensive, orderly basis for fiscal management and
23 control, including efficient accounting and reporting therefor, for the
24 executive branch of the state government and may include, in addition,
25 such requirements as will generally promote more efficient public
26 management in the state.

27 (1) Governor; director of financial management. The governor,
28 through the director of financial management, shall devise and
29 supervise a modern and complete accounting system for each agency to
30 the end that all revenues, expenditures, receipts, disbursements,
31 resources, and obligations of the state shall be properly and
32 systematically accounted for. The accounting system shall include the
33 development of accurate, timely records and reports of all financial
34 affairs of the state. The system shall also provide for central
35 accounts in the office of financial management at the level of detail
36 deemed necessary by the director to perform central financial
37 management. The director of financial management shall adopt and

1 periodically update an accounting procedures manual. Any agency
2 maintaining its own accounting and reporting system shall comply with
3 the updated accounting procedures manual and the rules of the director
4 adopted under this chapter. An agency may receive a waiver from
5 complying with this requirement if the waiver is approved by the
6 director. Waivers expire at the end of the fiscal biennium for which
7 they are granted. The director shall forward notice of waivers granted
8 to the appropriate legislative fiscal committees. The director of
9 financial management may require such financial, statistical, and other
10 reports as the director deems necessary from all agencies covering any
11 period.

12 (2) Except as provided in chapter 43.88C RCW, the director of
13 financial management is responsible for quarterly reporting of primary
14 operating budget drivers such as applicable workloads, caseload
15 estimates, and appropriate unit cost data. These reports shall be
16 transmitted to the legislative fiscal committees or by electronic means
17 to the legislative evaluation and accountability program committee.
18 Quarterly reports shall include actual monthly data and the variance
19 between actual and estimated data to date. The reports shall also
20 include estimates of these items for the remainder of the budget
21 period.

22 (3) The director of financial management shall report at least
23 annually to the appropriate legislative committees regarding the status
24 of all appropriated capital projects, including transportation
25 projects, showing significant cost overruns or underruns. If funds are
26 shifted from one project to another, the office of financial management
27 shall also reflect this in the annual variance report. Once a project
28 is complete, the report shall provide a final summary showing estimated
29 start and completion dates of each project phase compared to actual
30 dates, estimated costs of each project phase compared to actual costs,
31 and whether or not there are any outstanding liabilities or unsettled
32 claims at the time of completion.

33 (4) In addition, the director of financial management, as agent of
34 the governor, shall:

35 (a) Develop and maintain a system of internal controls and internal
36 audits comprising methods and procedures to be adopted by each agency
37 that will safeguard its assets, check the accuracy and reliability of
38 its accounting data, promote operational efficiency, and encourage

1 adherence to prescribed managerial policies for accounting and
2 financial controls. The system developed by the director shall include
3 criteria for determining the scope and comprehensiveness of internal
4 controls required by classes of agencies, depending on the level of
5 resources at risk.

6 Each agency head or authorized designee shall be assigned the
7 responsibility and authority for establishing and maintaining internal
8 audits following the standards of internal auditing of the institute of
9 internal auditors;

10 (b) Make surveys and analyses of agencies with the object of
11 determining better methods and increased effectiveness in the use of
12 manpower and materials; and the director shall authorize expenditures
13 for employee training to the end that the state may benefit from
14 training facilities made available to state employees;

15 (c) Establish policies for allowing the contracting of child care
16 services;

17 (d) Report to the governor with regard to duplication of effort or
18 lack of coordination among agencies;

19 (e) Review any pay and classification plans, and changes
20 thereunder, developed by any agency for their fiscal impact: PROVIDED,
21 That none of the provisions of this subsection shall affect merit
22 systems of personnel management now existing or hereafter established
23 by statute relating to the fixing of qualifications requirements for
24 recruitment, appointment, or promotion of employees of any agency. The
25 director shall advise and confer with agencies including appropriate
26 standing committees of the legislature as may be designated by the
27 speaker of the house and the president of the senate regarding the
28 fiscal impact of such plans and may amend or alter the plans, except
29 that for the following agencies no amendment or alteration of the plans
30 may be made without the approval of the agency concerned: Agencies
31 headed by elective officials;

32 (f) Fix the number and classes of positions or authorized employee
33 years of employment for each agency and during the fiscal period amend
34 the determinations previously fixed by the director except that the
35 director shall not be empowered to fix the number or the classes for
36 the following: Agencies headed by elective officials;

37 (g) Adopt rules to effectuate provisions contained in (a) through
38 (f) of this subsection.

1 (5) The treasurer shall:

2 (a) Receive, keep, and disburse all public funds of the state not
3 expressly required by law to be received, kept, and disbursed by some
4 other persons: PROVIDED, That this subsection shall not apply to those
5 public funds of the institutions of higher learning which are not
6 subject to appropriation;

7 (b) Receive, disburse, or transfer public funds under the
8 treasurer's supervision or custody;

9 (c) Keep a correct and current account of all moneys received and
10 disbursed by the treasurer, classified by fund or account;

11 (d) Coordinate agencies' acceptance and use of credit cards and
12 other payment methods, if the agencies have received authorization
13 under RCW 43.41.180;

14 (e) Perform such other duties as may be required by law or by
15 regulations issued pursuant to this law.

16 It shall be unlawful for the treasurer to disburse public funds in
17 the treasury except upon forms or by alternative means duly prescribed
18 by the director of financial management. These forms or alternative
19 means shall provide for authentication and certification by the agency
20 head or the agency head's designee that the services have been rendered
21 or the materials have been furnished; or, in the case of loans or
22 grants, that the loans or grants are authorized by law; or, in the case
23 of payments for periodic maintenance services to be performed on state
24 owned equipment, that a written contract for such periodic maintenance
25 services is currently in effect; and the treasurer shall not be liable
26 under the treasurer's surety bond for erroneous or improper payments so
27 made. When services are lawfully paid for in advance of full
28 performance by any private individual or business entity other than
29 equipment maintenance providers or as provided for by RCW 42.24.035,
30 such individual or entity other than central stores rendering such
31 services shall make a cash deposit or furnish surety bond coverage to
32 the state as shall be fixed in an amount by law, or if not fixed by
33 law, then in such amounts as shall be fixed by the director of the
34 department of general administration but in no case shall such required
35 cash deposit or surety bond be less than an amount which will fully
36 indemnify the state against any and all losses on account of breach of
37 promise to fully perform such services. No payments shall be made in
38 advance for any equipment maintenance services to be performed more

1 than twelve months after such payment. Any such bond so furnished
2 shall be conditioned that the person, firm or corporation receiving the
3 advance payment will apply it toward performance of the contract. The
4 responsibility for recovery of erroneous or improper payments made
5 under this section shall lie with the agency head or the agency head's
6 designee in accordance with regulations issued pursuant to this
7 chapter. Nothing in this section shall be construed to permit a public
8 body to advance funds to a private service provider pursuant to a grant
9 or loan before services have been rendered or material furnished.

10 (6) The state auditor shall:

11 (a) Report to the legislature the results of current post audits
12 that have been made of the financial transactions of each agency; to
13 this end the auditor may, in the auditor's discretion, examine the
14 books and accounts of any agency, official, or employee charged with
15 the receipt, custody, or safekeeping of public funds. Where feasible
16 in conducting examinations, the auditor shall utilize data and findings
17 from the internal control system prescribed by the office of financial
18 management. The current post audit of each agency may include a
19 section on recommendations to the legislature as provided in (c) of
20 this subsection.

21 (b) Give information to the legislature, whenever required, upon
22 any subject relating to the financial affairs of the state.

23 (c) Make the auditor's official report on or before the thirty-
24 first of December which precedes the meeting of the legislature. The
25 report shall be for the last complete fiscal period and shall include
26 determinations as to whether agencies, in making expenditures, complied
27 with the laws of this state. ~~((The state auditor is authorized to
28 perform or participate in performance verifications and performance
29 audits as expressly authorized by the legislature in the omnibus
30 biennial appropriations acts or in the performance audit work plan
31 approved by the joint legislative audit and review committee. The
32 state auditor, upon completing an audit for legal and financial
33 compliance under chapter 43.09 RCW or a performance verification, may
34 report to the joint legislative audit and review committee or other
35 appropriate committees of the legislature, in a manner prescribed by
36 the joint legislative audit and review committee, on facts relating to
37 the management or performance of governmental programs where such facts
38 are discovered incidental to the legal and financial audit or~~

1 ~~performance verification. The auditor may make such a report to a~~
2 ~~legislative committee only if the auditor has determined that the~~
3 ~~agency has been given an opportunity and has failed to resolve the~~
4 ~~management or performance issues raised by the auditor. If the auditor~~
5 ~~makes a report to a legislative committee, the agency may submit to the~~
6 ~~committee a response to the report. This subsection (6) shall not be~~
7 ~~construed to authorize the auditor to allocate other than de minimis~~
8 ~~resources to performance audits except as expressly authorized in the~~
9 ~~appropriations acts or in the performance audit work plan. The results~~
10 ~~of a performance audit conducted by the state auditor that has been~~
11 ~~requested by the joint legislative audit and review committee must only~~
12 ~~be transmitted to the joint legislative audit and review committee.))~~

13 (d) Be empowered to take exception to specific expenditures that
14 have been incurred by any agency or to take exception to other
15 practices related in any way to the agency's financial transactions and
16 to cause such exceptions to be made a matter of public record,
17 including disclosure to the agency concerned and to the director of
18 financial management. It shall be the duty of the director of
19 financial management to cause corrective action to be taken within six
20 months, such action to include, as appropriate, the withholding of
21 funds as provided in RCW 43.88.110. The director of financial
22 management shall annually report by December 31st the status of audit
23 resolution to the appropriate committees of the legislature, the state
24 auditor, and the attorney general. The director of financial
25 management shall include in the audit resolution report actions taken
26 as a result of an audit including, but not limited to, types of
27 personnel actions, costs and types of litigation, and value of recouped
28 goods or services.

29 (e) Promptly report any irregularities to the attorney general.

30 (f) Investigate improper governmental activity under chapter 42.40
31 RCW.

32 (7) The joint legislative audit and review committee may:

33 (a) Make post audits of the financial transactions of any agency
34 and management surveys and program reviews as provided for in chapter
35 44.28 RCW as well as performance audits and program evaluations. To
36 this end the joint committee may in its discretion examine the books,
37 accounts, and other records of any agency, official, or employee.

1 (b) Give information to the legislature or any legislative
2 committee whenever required upon any subject relating to the
3 performance and management of state agencies.

4 (c) Make a report to the legislature which shall include at least
5 the following:

6 (i) Determinations as to the extent to which agencies in making
7 expenditures have complied with the will of the legislature and in this
8 connection, may take exception to specific expenditures or financial
9 practices of any agencies; and

10 (ii) Such plans as it deems expedient for the support of the
11 state's credit, for lessening expenditures, for promoting frugality and
12 economy in agency affairs, and generally for an improved level of
13 fiscal management.

14 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.09 RCW
15 to read as follows:

16 Each biennium the legislature shall appropriate an amount equal to
17 two one-hundredths of one percent of the total general fund state
18 appropriation in that biennium's omnibus operating appropriations act
19 for purposes of the performance audits conducted by the state auditor
20 as authorized by sections 2 through 6 and 9 of this act.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.09 RCW
22 to read as follows:

23 If the legislative authority of a local jurisdiction requests a
24 performance audit of programs under its jurisdiction, the state auditor
25 has the discretion to conduct such a review under separate contract and
26 funded by local funds.

27 NEW SECTION. **Sec. 10.** A new section is added to chapter 2.56 RCW
28 to read as follows:

29 The office of the administrator for the courts is encouraged to
30 conduct performance audits of courts under the authority of the supreme
31 court, in conformity with criteria and methods developed by the board
32 for judicial administration that have been approved by the supreme
33 court. In developing criteria and methods for conducting performance
34 audits, the board for judicial administration is encouraged to consider
35 quality improvement programs, audits, and scoring. The judicial branch

1 is encouraged to submit the results of these efforts to the chief
2 justice of the supreme court or his or her designee, and with any other
3 applicable boards or committees established under the authority of the
4 supreme court to oversee government accountability."

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By Senators Roach, Esser, Stevens, Parlette, Benton, Pflug

NOT ADOPTED 04/07/2005

5 On page 9, line 15 of the title amendment, before "adding" insert
6 "amending RCW 43.88.160;"

7 On page 9, at the beginning of line 16 of the title amendment,
8 after "RCW;" strike "adding a new section to chapter 43.88 RCW;"

9 On page 9, line 17 of the title amendment, after "creating" strike
10 "new sections" and insert "a new section"

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